

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

Crl.Rev.Pet.No. 2683 of 2007()

ST.129/2007 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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REVN. PETITIONER: COMPLAINANT

ABRAHAM MATHEW,
KALATHILAYA KANJIRAPARAMBIL, KARAPUZHA P.O.,
KOTTAYAM.

BY ADV. SRI.C.A.CHACKO
SMT.C.M.CHARISMA
SRI.N.A.SHAFAEEK

RESPONDENTS: STATE

THE STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

V. RAMKUMAR, J.

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CrI.R.P. NO. 2683 of 2007

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Dated, this the 13th day of July 2007

ORDER

Revision Petitioner who is the complainant in a prosecution under Section 138 of the Negotiable Instruments Act, 1881, in respect of a cheque involving Rs.85,000/- and pending before the J.F.C.M.-II (Mobile), Kottayam as S.T. 129 of 2007 was not present on 10-4-2007 to which date the case was posted for payment of process fee. On that date, r his counsel was also not present and no process fee was also paid. The case was thereupon adjourned to the next day i.e. on 11-4-2007 on which date also the revision petitioner as well as his counsel were absent. Thereupon the complaint was dismissed under Sec. 204 (4) Cr.P.C. It is the said order which is assailed in this revision.

2. The case of the revision petitioner is that the clerk of the revision petitioner's counsel appearing in the lower court had mistakenly noted the date of posting of the case as 10-5-2007 instead of 10-4-2007 and that was the reason why there happened to be no representation on 10-4-2007. The reason put forward appears to be a genuine reason and, at any rate, the Magistrate should have secured the presence of the complainant or his counsel and given him

an opportunity to pay the process fee before dismissing the case under Sec. 204 (4) Cr.P.C. The order dated 11-04-2007 is set aside and S.T. Case No. 129 of 2007 is restored to file. It shall be called before the Court below on 27-07-2007 before which date the revision petition shall pay process fee etc. .

This Crl.R.P. is disposed of as above.

**V. RAMKUMAR,
(JUDGE)**

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